## **ENTERPRISE ZONE INVESTMENT TAX CREDIT**

#### 39-30-104

### 1) Credit allowed

a) For income tax years commencing on or after January 1, 1986, a Colorado income tax investment tax credit is allowed with respect to investments in qualified property as defined in section 48 of the internal revenue code which is first placed in service during the tax year in a Colorado enterprise zone and is used solely and exclusively in such enterprise zone for at least one year. The amount of the credit is three percent of the qualified investment in such property as defined in section 46 of the internal revenue code. To the extent the qualified investment is limited for any reason for federal income tax purposes, such limitation shall apply for Colorado income tax purposes. For example, only sixty percent of the investment in 3-year ACRS recovery property may be used to compute the enterprise zone investment tax credit; the qualified investment in used property is limited to \$150,000 per year, and any amounts expensed under section 179 of the internal revenue code do not qualify. Claiming the enterprise zone investment tax credit will have no effect on the taxpayer's basis in the property.

### b) Leased property.

- i) The owner of the property may elect to pass on the investment credit to the lessee of the property if the leased property is new section 38 property both to the owner and to the lessee. A lessor cannot pass on the credit for used property to the lessee.
- ii) Non-corporate lessors and S corporation lessors are eligible for the enterprise zone investment credit only if: (1) the leased property has been manufactured or produced by the lessor, or the term of the lease is less than 50 percent of the January 1, 1986 asset depreciation range (ADR) class life for recovery property (useful life for other property) of the leased property; and (2) the lessor's business expense deductions (other than rental payments and reimbursed expenses) related to the property are more than 15 percent of the rental income from the property for the first year of the lease.
- iii) When new section 38 property with an ADR class life of more than 14 years is leased (not a net lease) for a period which is shorter than 80 percent of its class life, the lessor may pass through to the lessee only that portion of the credit which the lease period covers.
- iv) The investment tax credit will not be allowed when a tax-exempt organization sells depreciable property to pass the tax benefits to the new owner and then leases back the property.
- c) If qualifying property is used for business purposes outside of the enterprise zone during the twelve-month period immediately following the date the property was first placed in service, the enterprise zone investment tax credit will not be allowed with respect to such property. If an income tax return has already been filed claiming the credit, an amended return must be filed forfeiting such credit and any carrybacks and carryforwards must be recomputed as appropriate. Moving the property outside the zone for repairs will not disqualify the property. Neither will moving the property from one zone to another.

### 2) Limitations on credit; carrybacks and carryovers

- a) For tax years beginning prior to January 1, 1996, the amount of enterprise zone investment tax credit that may be claimed for any tax year was limited to an amount equal to the first \$5,000 of tax liability plus 25% of the tax liability in excess of \$5,000 minus the amount of any "old" (section 39-22-507.5) investment tax credit claimed for the same tax year. Excess credits could be carried back three years and forward seven.
- b) For tax years beginning on or after January 1, 1996, the amount of enterprise zone investment tax credit that may be claimed for any tax year is limited to an amount equal to the first \$5,000 of tax liability plus 50% of such tax liability in excess of \$5,000 minus the amount of any "old" (section 39-22-507.5) investment tax credit claimed for the same tax year. Excess credits may be carried back three tax years and forward twelve.
- c) For tax years beginning on or after January 1, 2011 but prior to January 1, 2014, the total credit used to offset tax cannot exceed \$500,000 for the tax year. The portion of any credit deferred due to the \$500,000 limitation in tax years 2011-2013 may be carried forward one additional year for each tax year the deferral applies.
- d) The enterprise zone investment tax credit and the section 39-22-507.5, "old investment tax credit", may not be claimed with respect to the same expenditure. But there is no restriction as to claiming the enterprise zone investment tax credit and the section 39-22-507.6, "new investment tax credit", on the same expenditure.
- 3) Relocation facility. For tax years beginning on or after January 1, 1997, no enterprise zone investment tax credit will be allowed for any expenditures resulting from the relocation of a facility from a location in Colorado to a location in an enterprise zone. This rule shall not apply if during the relocation, the new facility meets one of the criteria for determining an expansion facility: a \$1,000,000 or 100% investment increase or a 10 employee or 10% employee increase.
- 4) **No recapture required.** There are no recapture provisions relative to the enterprise zone investment tax credit.
- 5) Certificate of location. Taxpayers claiming an enterprise zone credit in excess of \$450 must attach to their income tax return a certificate from the zone administrator verifying that the taxpayer's place of business is located within the enterprise zone. The certificate must be provided in the manner requested by the Department in the case of electronically filed returns. No certificate will be issued for the credit for motor vehicles specified in paragraph 7) below because the Colorado Economic Development Commission (EDC) will provide information on available credits to the Department electronically. Credits will not be allowed unless that taxpayer is specifically listed in the electronic submission from the EDC.
- 6) **Federal references.** References in this regulation to the internal revenue code means the internal revenue code as it existed prior to the enactment of the "Revenue Reconciliation Act of 1990".

# 7) Qualified commercial vehicles

- a) For tax years beginning on or after January 1, 2011, a commercial truck, truck tractor, tractor, or semitrailer and any parts for such vehicle purchased at the same time will qualify for a limited enterprise zone investment tax credit if it meets all of the following:
  - Sold as a new vehicle on or after July 1, 2011
  - Model year 2010 or later
  - 54,000 lbs. GVW or greater

- Designated as Class A personal property
- Licensed and registered in Colorado
- Predominantly housed and based at the taxpayer's business trucking facility located within an enterprise zone for at least the first year of its ownership by the taxpayer
- b) The credit is limited to 1.5% of the qualified investment and is subject to allocated funding. Taxpayers must apply with the Colorado Economic Development Commission, which will determine if sufficient funding is available and, if so, will notify the Department of Revenue of the amount of the credit available to each taxpayer.